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## BOOK REVIEWS.

G. FORREST BUTTERWORTH, JR., *Editor-in-Charge*.

PROPERTY AND CONTRACT IN THEIR RELATIONS TO THE DISTRIBUTION OF WEALTH. By RICHARD T. ELY. New York: THE MACMILLAN CO. 1914. pp. xlvii, 995.

Professor Ely undoubtedly has performed a most valuable service in making his extensive study of private property and contract. The two volumes of his work are divided into four parts. Part I deals with "Property, Public and Private," Part II with "Contract and its Conditions". These two divisions compose the bulk of the work. Parts III and IV are devoted to appendices. Part III consists of a discussion of "Vested Interests". Part IV contains four appendices. The first of these by the author is entitled "Personal Conditions"; the second by Dr. T. I. King discourses "Production, Present and Future." The third appendix in this section is a nobly compiled analytical list of cases illustrating the attitude of the courts toward property and contract rights. This appendix is the work of Prof. Samuel P. Orth of Cornell. The fourth and last appendix of Part IV consists of a fifty page bibliography and a sixty page index both of which are exceedingly well done.

In the scope of a brief review it is almost impossible to discuss extensively such a work as Professor Ely's. The best, perhaps, that can be done is to indicate the general character of it. In the first place, therefore, it need scarcely to be said that the work is in no sense a legal treatise in spite of the fact that a very considerable amount of both illustrative and other material has been drawn from legal decisions. Most fittingly, perhaps, the study may be described as a treatise in philosophical economics though such an expression may appear to many as somewhat redundant. In so far, however, as the volumes treat of property and contract they are certainly dealing with two subjects which the science of economics has always regarded and considered as fundamental institutions. At the same time the author's method of discussion, his analysis of the causes and effects of these institutions, their justification and desirability are so broadly philosophical in tone as to permit the designation which the reviewer has offered. The author holds no brief for or against the institutions which he has discussed. He neither assails nor defends. His work throughout is that of exposition.

As might be expected of the work of one of the most able American economists the two volumes lay considerable emphasis upon the social aspect of both private property and contract. Throughout the author's belief that the justification of both these institutions must be a social one is clearly evident. "Private property is established and maintained for social purposes" (p. 165) and again, "All contracts find their logical origin in the social welfare and in this they find their ground for their maintainance." (p. 615) To many of the members of the legal profession who are opponents of these theories which they dub sociological jurisprudence such views are unlikely to appeal. It is to such individuals, however, that the work may be most strongly recommended. There are few of them or for that matter few members of

the legal profession generally who will not derive profit from Professor Ely's broad philosophical study of these institutions.

In adverse criticism of the volume a few points are worthy of mention. First in importance from the present reviewer's standpoint is the accumulation of the usual footnote citations and observations at the end of each chapter instead of at the bottom of each page to which they refer. This creates a decided inconvenience for the student and careful reader. It is the more to be deplored in Professor Ely's work because his notes are both numerous and valuable. A second point which may be mentioned relates to Dr. King's study of "Production, Present and Future" the second appendix of Part IV. Valuable as this study may be (and both Professor Ely's own statement and his inclusion of it in his work indicate beyond doubt his own view of the matter) its relation to the work proper is none too obvious and in consequence the reviewer is induced to duplicate the inclusion.

W. H. S. Stevens,

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THE PRINCIPLES OF LEGAL LIABILITY FOR TRESPASSES AND INJURIES BY ANIMALS. By WILLIAM NEWBY ROBSON, M.A., LL.D. Cambridge: UNIVERSITY PRESS. 1915. pp. xvi, 180.

The title of this book reveals at a glance the limited scope of the text. Instead of attempting to survey the entire body of legal rules dealing with the subject of animals and to chart its numerous ramifications in special fields, such as carriers, bailments and the criminal law, with its modern humane statutes penalizing cruelty, the author has confined himself to a formulation and discussion of the principles by which liability in tort is imposed upon an owner for the transgressions of his beasts. Restriction of subject-matter invites extensive study, predisposes to accuracy and offers an investigator excellent opportunity to summarize his researches in a treatise which will afford his readers an exhaustive exposition of the truth as he sees it yet will not dismay them by great length. Dr. Robson has not failed to take full advantage of his opportunity. He has taken pains to lay bare a distinct line of principle and "hews exactly to that line", thereby creating, according to the tests recently suggested by a reviewer in these columns, a genuine textbook and not merely compiling a digest crammed with "unrelated and undigested chunks of information." It is a treat to meet with a truly valuable legal commentary which, like this, may be slipped entire into a coat-pocket or carried away for week-end perusal without necessitating the sacrifice of half the available space in one's travelling bag.

Dr. Robson's summaries of the law are concise, well supported by authority and expressed comprehensibly. The double classification of animals existing in English law for the separate purposes of determining ownership and of fixing liability for injuries is brought out clearly by the Introduction and the topic sentences of Part 1. The chapter on "Trespass to Land" contains an illuminating discussion of the complications caused by prescriptive obligations to keep fences in repair. The gradual development of the rule making it unnecessary to prove scienter in the owner of an animal classified as dangerous is traced excellently in § 1 of Part 3. Occasionally, however, the citations are somewhat confusing. The authorities utilized on pp. 120-128 to establish the second class of exemptions from the absolute liability for harm